

# CONSIDERATION OF AN EFFORT CONTROL PLAN FOR THE OUTER CAPE LOBSTER MANAGEMENT AREA (OCLMA)

March 26, 2003  
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## I. INTRODUCTION

The purpose of this plan is to reduce the number of lobster traps fished in the Outer Cape Lobster Management Area (OCLMA) by 25% by 2008 as mandated by the Atlantic States Marine Fisheries Commission (ASMFC) and to establish a process to enable the transfer of existing commercial lobster permits and traps pursuant to M.G.L. c. 130, § 38B, and c. 369, St. 1992.

The American lobster fishery is the state's most economically important fishery conducted within the territorial waters. As such, a program to cap and reduce effort in OCLMA was developed in response to recent ASMFC stock assessments that indicated more controls on fishing were required to prevent resource depletion and subsequent declines in landings. The program as described in this section is effective January 1, 2004.

## II. BACKGROUND OF PROBLEM AND MANAGEMENT ACTIONS

Amendment 3 to the Interstate Fishery Management Plan for American Lobster was approved in December 1997 with the goal "to minimize the chance of a population collapse due to recruitment failure." To achieve this goal Amendment 3 laid the framework for the use of area-based management to achieve plan targets. For the OCLMA this meant a reduction in overall trap numbers to 800 traps per vessel by 2000.

Addenda I (August 1999) and II (February 2001) incorporated LCMT proposals to control effort and egg production, respectively. Cumulatively, this created the following management measures in the Outer Cape:

|                                     | July 1, 2003  | July 1, 2004 |
|-------------------------------------|---|--------------|
| <b>Minimum Size</b>                 | 3 11/32"  | 3 3/8"       |
| <b>Escape Vent<br/>Minimum Size</b> | 2" x 5 3/4" (one rectangular) or<br>2" (two circular) | No Change    |

In February of 2002, the ASMFC Lobster Management Board approved Addendum III to Amendment 3. The Addendum includes the trap reduction schedule developed by the Outer Cape Lobster Conservation Management Team to affect a 20% reduction in number of traps with an additional 5% reduction possible in 2006 and 2007. Massachusetts delayed implementation of the ASMFC-approved LCMT effort control plan in OCLMA to address the possibility of a state-wide effort control plan that would ease administrative and enforcement burden while protecting infringement of effort into other LMAs, specifically the valuable Area 1 fishery. Having received substantial public comment against such a proposal, *Marine Fisheries* has not adopted a state-wide plan but must now take action to bring Massachusetts into compliance regarding effort control in OCLMA.

### III. EFFORT CONTROL PLAN: OBJECTIVES & DETAILS

#### (A) Objectives

Based on the state-wide proposed plan with the addition of historic participation requirements in the OCLMA, this effort control plan is comprised of two parts: a trap limit program and transfer program. Program objectives focus on several areas including: administration, enforcement, biological and economic impacts, and industry acceptance, the primary objective being a 20% reduction in traps by 2008. Administratively, the program needs to be easily implemented, monitored, and evaluated without adding significantly to agency costs. Rules must be well defined, easily understood by participants, and provide practical measures for enforcement.

#### (B) Details

##### I. History-Based Trap Limit Program

*Marine Fisheries* will allocate traps allowed to be fished to each permit holder based on the permit's unique fishing history during 1997 through 2001 with traps fished and poundage, as plan components. Each fisherman will be given his average number of traps reported fished, but is limited in transferable traps to a number of traps that is reflective of his average poundage.

In the view of *Marine Fisheries* staff, catch statistics of pounds harvested may be more dependable than traps reported fished. The number of traps reported fished is not one of the agency's audit elements and therefore it is likely to be less reliable, and makes for a poorer standard to judge a fisherman's actual level of fishing activity. Agency audits in 2001 enabled an accurate depiction of the fishery within 1.4%. There has been vocal objection to allocating traps based on landings. Many fishermen argued against using landings as the key measure for trap allocation and cited some reasons their landings would be below average: their fishing season is shorter due to choice or personal circumstances; lobster abundance and consequent catch rates are lower in their area; or their skill or equipment is below average. However, *Marine Fisheries* has received reports of allegations of under-reporting of landings among some fishermen; fishermen who under-report may be involved in cash-sales and not receive invoice slips or may be selling to non-licensed dealers.

Effective January 2004, each eligible OCLMA permit holder will be granted their *Trap Allocation* based on the average maximum number of traps reported fished during the years 1997 through 2001. (Years with no activity will not be included in the calculation of average). Eligibility is based on an active permit endorsed for OCLMA in 1999 and 2000; all others would be denied access to the OCLMA fishery.

*Marine Fisheries* will review each permit holders catch reports and trap tag purchases for years 1999 through 2001 to ensure permit holders purchased and used trap tags as required by 322 CMR 6.31 (Note: trap tags were not required prior to 1999). For purposes of calculating a *Trap Allocation*, any year where the permit holder reported fishing more traps than the number of tags purchased (or issued by *Marine Fisheries*), the number of trap tags purchased will be used in lieu of their reported traps. Simply put, if a fisherman reported fishing traps but was issued no tags for that year, or was issued a lower number of tags than what was reported fished, then the presumption is the report was fraudulent.

##### II. Transfer Program

In addition to the initial determination of traps allocated to each permit, this effort control program will regulate all permit and trap transfers through a transfer program. Permit holders will be given a *Transferable Allocation*. The *Transferable Allocation* will allocate the number of traps that may be transferred based either on the *Trap Allocation* or the number of traps allowed to be fished as calculated by a modeled relationship of traps and landings in OCLMA (see Appendix 1), whichever is lower. This *Transferable Allocation* value represents a maximum number of traps each permit holder could transfer to another fisherman when transferring his whole business or a portion of his allocation.

Transfers between fishermen would be allowed in minimum increments of 50 traps, except for those individuals whose *Transferable Allocation* is less than 50 traps; those with less than 50 traps will be allowed to transfer their entire number of traps in combination with their permit. No permit holder would be allowed to have fewer than 50 traps after a transfer takes place; the *Transferable Allocation* of each permit associated with the transaction shall be modified accordingly. In other words, a permit holder would be left with a number of traps equal to their original *Transferable Allocation* minus any traps transferred from them; likewise, a permit holder receiving traps would be left with a number of traps equal to their original *Transferable Allocation* plus any traps transferred to them. Traps transferred between fishermen would be transferable in the future by the new owner. If traps are never transferred, the fisherman's *Trap Allocation* will remain in effect (unless *Marine Fisheries* enacts a fishery-wide trap reduction in a given LCMA).

A trap transfer "charge" is established where *Marine Fisheries* retains 10% percentage of each trap transaction for conservation purposes.

Trap tags may only be transferred within OCLCMA, not between areas.

Trap tag leasing will be prohibited. Only permanent transfers between fishermen will be allowed.

Fishermen may only transfer tags through the process established by *Marine Fisheries*. Any permit holder found leasing or transferring trap tags without authorization will have their permits revoked.

Existing permit transfer rules (322 CMR 7.06) will be amended to eliminate minimum performance standards. The requirement that permits be fished 4 of the last 5 years to be eligible for a transfer may not be warranted.

#### IV. CASE EXAMPLES AND ANALYSIS

##### (A) Case Examples

Cases A through G in Table 2 below present examples of how different permit holders' history of traps and pounds are used in this two-stage approach to trap allocation for 2004 and beyond. In cases A, B, E, and F the *Trap Allocation* is greater than the *Transferable Allocation*. The *Transferable Allocation* is lower because reported landings fall below the typical performance for that level of traps; see Appendix 1. In contrast, cases C, D, and G had landings that were above the typical performance, so their *Transferable Allocation* is equivalent to their *Trap Allocation*.

**Table 2. Case examples of allocation rules in trap limit program.**

| Case       | Reported Traps per Year |      |      |      |      | Average<br>Traps<br>(97-01) | Trap<br>Allocation | Reported<br>average<br>pounds<br>(97-01) | Pound-<br>based<br>predicted<br>trap level | Transferable<br>Allocation |
|------------|-------------------------|------|------|------|------|-----------------------------|--------------------|--|--|----------------------------|
|            | 1997                    | 1998 | 1999 | 2000 | 2001 |                             |                    |  |  |                            |
| <b>A</b>   | 0                       | 21   | 15   | 0    | 0    | 18                          | 18                 | 81                                       | 11   | 11                         |
| <b>B</b>   | 70                      | 800  | 315  | 520  | 272  | 395                         | 395                | 4,822                                    | 216  | 216                        |
| <b>C*</b>  | 400                     | 600  | 0    | 0    | 0    | 500                         | 500                | 17,625                                   | 556  | 500                        |
| <b>D*</b>  | 140                     | 130  | 175  | 200  | 200  | 169                         | 169                | 9,826                                    | 363  | 169                        |
| <b>E</b>   | 100                     | 200  | 200  | 200  | 300  | 200                         | 200                | 1,365                                    | 86   | 86                         |
| <b>F</b>   | 800                     | 800  | 800  | 800  | 800  | 800                         | 800                | 16,362                                   | 527  | 527                        |
| <b>G**</b> | 800                     | 800  | 800  | 800  | 800  | 800                         | 800                | 29,997                                   | 819  | 800                        |

**(B) Analysis of Overall Trap Totals to Meet Management Objectives**

This effort control plan caps and reduces traps immediately, minimizes disruption of current participants, and treats qualified fishery participants fairly and equitably. Allocated traps in 2004 will be close to that fished in recent years (Table 3).

**Table 3. Effect of effort control plan on allocated traps in Outer Cape Cod.**

| LCMA   | # of permits assigned | Traps reported fished in 1998 | Traps reported fished averaged over 1997-2001 | Change relative to 1998 | Transferable trap numbers | Change relative to 1998 | Change relative to 2001 |
|--------|-----------------------|-------------------------------|---|-------------------------|---------------------------|-------------------------|-------------------------|
| OCC    | 59                    | 25,147                        | 20,673  | -18%                    | 17,786                    | -29%                    | -8%                     |
| DNF    |                       |                               |   |                         |                           |                         |                         |
| TOTALS |                       |                               |   |                         |                           |                         |                         |

In OCLMA, traps allocated for 2004 will be 18% lower than 1998 levels; the 20% reduction in number of traps must be taken relative to 1998 levels. Passive reduction of traps through transfers should permit an additional reduction of 2% to reach 20% by 2008. These numbers are subject to minor change because *Marine Fisheries* designation of a permit holder's area may be inaccurate in some cases. Once the plan is enacted shifting traps into OCLMA will not be allowed.

**V. CONCLUSIONS**

The Plan will cap the number of lobster traps fished in OCLMA to current levels actually fished equivalent to an 18% reduction relative to 1998 levels. This is a significant measure because it ensures that the benefits gained by other management measures in the Interstate FMP will not be eroded by increased fishing effort. All previous actions to reach F10% are predicated on the assumption that fishing effort and fishing mortality since 1998 remains the same. We encourage all other jurisdictions to entertain implementation of effective effort control as a foundation for management of American lobster as defined in Objective 2 of Amendment 3.

Because of the time needed to complete both our public hearing process and rule-making, and to develop and have available the proper permit materials at the start of a fishing year, we would not consider launching a new trap control plan prior to the 2004 fishing year.

## **VI. APPENDIX 1**

**Appendix 1. LCM Area Outer Cape Cod specific trap allocations based on individual fishermen's unique level of average landings. Find your average annual landings for the years 1997-2001 in the appropriate table for your area to see your predicted trap value.**

| Average Pounds | Traps Allocated | Average Pounds | Traps Allocated | Average Pounds | Traps Allocated | Average Pounds | Traps Allocated |
|----------------|-----------------|----------------|-----------------|----------------|-----------------|----------------|-----------------|
| 0              | 0               | 6,100          | 322             | 12,200         | 554             | 18,300         | 760             |
| 100            | 13              | 6,200          | 327             | 12,300         | 558             | 18,400         | 763             |
| 200            | 22              | 6,300          | 331             | 12,400         | 561             | 18,500         | 767             |
| 300            | 31              | 6,400          | 335             | 12,500         | 565             | 18,600         | 770             |
| 400            | 38              | 6,500          | 339             | 12,600         | 568             | 18,700         | 773             |
| 500            | 46              | 6,600          | 343             | 12,700         | 572             | 18,800         | 776             |
| 600            | 53              | 6,700          | 347             | 12,800         | 575             | 18,900         | 780             |
| 700            | 60              | 6,800          | 351             | 12,900         | 579             | 19,000         | 783             |
| 800            | 66              | 6,900          | 355             | 13,000         | 582             | 19,100         | 786             |
| 900            | 72              | 7,000          | 359             | 13,100         | 586             | 19,200         | 789             |
| 1,000          | 79              | 7,100          | 363             | 13,200         | 589             | 19,300         | 792             |
| 1,100          | 85              | 7,200          | 367             | 13,300         | 593             | 19,400         | 796             |
| 1,200          | 91              | 7,300          | 371             | 13,400         | 596             | 19,500         | 799             |
| 1,300          | 96              | 7,400          | 375             | 13,500         | 600             | >19,537        | 800             |
| 1,400          | 102             | 7,500          | 379             | 13,600         | 603             |                |                 |
| 1,500          | 108             | 7,600          | 383             | 13,700         | 606             |                |                 |
| 1,600          | 113             | 7,700          | 387             | 13,800         | 610             |                |                 |
| 1,700          | 119             | 7,800          | 391             | 13,900         | 613             |                |                 |
| 1,800          | 124             | 7,900          | 395             | 14,000         | 617             |                |                 |
| 1,900          | 130             | 8,000          | 399             | 14,100         | 620             |                |                 |
| 2,000          | 135             | 8,100          | 402             | 14,200         | 624             |                |                 |
| 2,100          | 140             | 8,200          | 406             | 14,300         | 627             |                |                 |
| 2,200          | 145             | 8,300          | 410             | 14,400         | 630             |                |                 |
| 2,300          | 151             | 8,400          | 414             | 14,500         | 634             |                |                 |
| 2,400          | 156             | 8,500          | 418             | 14,600         | 637             |                |                 |
| 2,500          | 161             | 8,600          | 422             | 14,700         | 641             |                |                 |
| 2,600          | 166             | 8,700          | 425             | 14,800         | 644             |                |                 |
| 2,700          | 171             | 8,800          | 429             | 14,900         | 648             |                |                 |
| 2,800          | 176             | 8,900          | 433             | 15,000         | 651             |                |                 |
| 2,900          | 180             | 9,000          | 437             | 15,100         | 654             |                |                 |
| 3,000          | 185             | 9,100          | 441             | 15,200         | 658             |                |                 |
| 3,100          | 190             | 9,200          | 444             | 15,300         | 661             |                |                 |
| 3,200          | 195             | 9,300          | 448             | 15,400         | 664             |                |                 |
| 3,300          | 200             | 9,400          | 452             | 15,500         | 668             |                |                 |
| 3,400          | 204             | 9,500          | 456             | 15,600         | 671             |                |                 |
| 3,500          | 209             | 9,600          | 459             | 15,700         | 674             |                |                 |
| 3,600          | 214             | 9,700          | 463             | 15,800         | 678             |                |                 |
| 3,700          | 218             | 9,800          | 467             | 15,900         | 681             |                |                 |
| 3,800          | 223             | 9,900          | 471             | 16,000         | 685             |                |                 |
| 3,900          | 227             | 10,000         | 474             | 16,100         | 688             |                |                 |
| 4,000          | 232             | 10,100         | 478             | 16,200         | 691             |                |                 |
| 4,100          | 237             | 10,200         | 482             | 16,300         | 695             |                |                 |
| 4,200          | 241             | 10,300         | 485             | 16,400         | 698             |                |                 |
| 4,300          | 245             | 10,400         | 489             | 16,500         | 701             |                |                 |
| 4,400          | 250             | 10,500         | 493             | 16,600         | 704             |                |                 |
| 4,500          | 254             | 10,600         | 496             | 16,700         | 708             |                |                 |
| 4,600          | 259             | 10,700         | 500             | 16,800         | 711             |                |                 |
| 4,700          | 263             | 10,800         | 504             | 16,900         | 714             |                |                 |
| 4,800          | 267             | 10,900         | 507             | 17,000         | 718             |                |                 |
| 4,900          | 272             | 11,000         | 511             | 17,100         | 721             |                |                 |
| 5,000          | 276             | 11,100         | 515             | 17,200         | 724             |                |                 |
| 5,100          | 280             | 11,200         | 518             | 17,300         | 728             |                |                 |
| 5,200          | 285             | 11,300         | 522             | 17,400         | 731             |                |                 |
| 5,300          | 289             | 11,400         | 525             | 17,500         | 734             |                |                 |
| 5,400          | 293             | 11,500         | 529             | 17,600         | 737             |                |                 |
| 5,500          | 297             | 11,600         | 533             | 17,700         | 741             |                |                 |
| 5,600          | 302             | 11,700         | 536             | 17,800         | 744             |                |                 |
| 5,700          | 306             | 11,800         | 540             | 17,900         | 747             |                |                 |
| 5,800          | 310             | 11,900         | 543             | 18,000         | 750             |                |                 |
| 5,900          | 314             | 12,000         | 547             | 18,100         | 754             |                |                 |
| 6,000          | 318             | 12,100         | 550             | 18,200         | 757             |                |                 |